

(C) Landowners [Owners] or landowner's agents may transfer nest stamps only to permitted egg collectors [and hatchling tags only to licensed alligator hunters].

(2) (No change.)

[(3) Licensed alligator hunters may obtain hatchling tags from a landowner or landowner's agent.]

(b) It is unlawful for a landowner or landowner's agent to issue a nest stamp [or hatchling tag] for a tract of land or water other than the tract for which the stamp [tag] was originally issued and an alligator hunter or egg collector shall collect only on tracts designated for the [tags or] stamps he or she possesses.

(c) (No change.)

[(d) An alligator hunter in the act of collecting hatchlings must possess on his or her person one or more current hatchling tags and a hatchling collection authorization form, provided that only one hunter needs to possess hatchling tags and the authorization form among a group of hunters accompanying each other.]

(d)[(e)] Alligator eggs [and hatchlings] shall be collected from the wild by hand [or non-injurious handheld device] and must be appropriately marked as prescribed by these rules to identify them as being legally collected.

(1) Each clutch of eggs must be accompanied immediately upon collection and throughout transportation and incubation by a nest stamp which indicates the location of collection, the date and time of collection, [and the number of eggs collected, and the name of the alligator farmer authorized to receive the alligator eggs].

(2) Egg collectors shall notify the game warden or district law enforcement supervisor in the area of egg collection no less than 24 hours prior to each collection trip. [Each hatchling must upon collection immediately be tagged with a department hatchling tag according to instructions issued with the tag.]

(e)[(f)] Alligator eggs [and hatchlings] may only be collected during time periods specified by the department as indicated on the egg collection authorization form [or hatchling collection authorization form].

§65.364. Alligator Farm Facility Requirements.

(a)-(b) (No change.)

(c) All alligator farmers possessing hatchling alligators shall house such hatchlings in temperature controlled alligator sheds capable of maintaining a minimum constant temperature of 80 degrees Fahrenheit, [rearing tank(s)] containing dry and

wet areas of sufficient surface area to permit all alligators to completely submerge in water and completely exit from water and orient in any direction, without touching the sides of the tank(s).

(d) Alligator farmers shall house alligators of different lengths into at least three groups, providing separation for all alligators less than two feet in length, two to four feet in length, and over four feet in length. Land and water areas sufficient for complete submersion or complete exit from water shall be provided for each group of alligators held.

(e) Complete written records of all changes in alligator stock shall be kept and made available for examination by department personnel. Shipping tickets, invoices, or bills of lading shall be maintained to show source of supply or disposition of alligator stock. [Nesting activity of captive alligators shall be recorded, with a daily account of nests constructed and eggs collected.]

(f) Nesting activity of captive alligators shall be recorded on a daily basis. Summaries of nest constructed, eggs collected, number of viable eggs set, and hatchling success shall be recorded on forms provided by the department and submitted to the department by September 15 of each year.

(g) All alligators 48 inches or less in length shall be housed in temperature controlled alligator sheds unless a written authorization from the department is received to move them to outside growth areas.

(h) Alligator egg incubators shall:

(1) maintain a water and air temperature of 85 to 91 degrees Fahrenheit during egg incubation;

(2) utilize temperature monitors;

(3) utilize alarm system which alerts farmer when temperatures are above or below the prescribed range;

(4) maintain backup system to supply power and water if main power source fails.

(i) [(f)] All facilities, alligator stock, and records are subject to examination by department personnel prior to permitting and thereafter during farm operation.

(j) No alligator eggs collected or obtained under authority of these rules may be shipped out of state.

§65.368. Exceptions.

(a) (No change.)

(b) The department or an authorized representative of the department may take by any means and possess alligators,

alligator eggs, or parts of alligators while in the performance of official duties.

(c)-(e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 17, 1990

TRD-9013624

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Earliest possible date of adoption: January 21, 1991

For further information, please call: 1-800-792-1112, ext. 4700 or (512) 389-4700

Part III. Texas Air Control Board

Chapter 111. Control of Air Pollution from Visible Emissions and Particulate Matter

Incineration

• 31 TAC §§111.124, 111.125, 111.127, 111.129

The Texas Air Control Board (TACB) propose s new §111.124, concerning burning hazardous waste fuels in commercial combustion facilities, and amendments to §§111.125, concerning testing requirements, to §111.127, concerning monitoring and recordkeeping requirements, and to §111.129, concerning operating requirements. The new section and the amendments to the other sections are intended to regulate commercial facilities, such as industrial furnaces, boilers, and cement kilns, which use hazardous waste from off-site sources as fuel and are not regulated by the United States Environmental Protection Agency (EPA) under 40 Code of Federal Regulations (CFR) 264 or 265, Subpart O.

The new §111.124 establishes emission and operational requirements for commercial combustion facilities which burn hazardous waste fuels. The amendments to §§111.125, 111.127, and 111.129 add testing, monitoring, and operational requirements for those facilities and include some minor editorial changes.

Lawrence E. Pewitt, director of the Permits Program, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for local units of government as a result of enforcing or administering the sections. However, there are anticipated costs to state government for the testing and initial inspection of those affected commercial facilities which choose to continue burning hazardous waste fuels. The costs to TACB of administering the sections is estimated to be \$300,000 during the first year and \$50,000 per year for the next four years. These estimates are based on the very small number of affected facilities in Texas.

Mr. Pewitt also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be reduced emissions of air contaminants from affected facilities which are not regulated by EPA under provisions of the Resource Recovery and Conservation Act and 40 CFR 264 and 265, Subpart O. The new rules will establish uniform requirements for all affected facilities, whether or not they currently are regulated. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the sections as proposed. Public hearings will be held as follows: January 16, 1991, 10 a.m., Texas Air Control Board Auditorium, 6330 Highway 290 East, Austin; January 16, 1991, 7 p.m. New Braunfels Civic Center, 380 South Seguin, New Braunfels; and January 17, 1991 7 p.m., Midlothian High School Auditorium, 925 South 9th Street, Midlothian.

Copies of the proposed rule changes are available from Barry Irwin at the TACB central office and at all TACB regional offices.

Public comment, both oral and written, on the proposal is invited at the hearing. Written testimony received by 4 p.m. on January 18, 1991, will be included in the hearing record and should be sent to the Control Strategy Division, Texas Air Control Board, 6330 U. S. Highway 290 East, Austin, Texas 78723.

The new section and amendments are proposed under the Texas Clean Air Act (TCAA), §382.017(a), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§111.124. Burning Hazardous Waste Fuels in Commercial Combustion Facilities. No person shall cause, suffer, allow, or permit the burning of hazardous waste fuel for energy recovery in any facility that accepts hazardous waste fuels from off-site sources that is not regulated by the United States Environmental Protection Agency at 40 Code of Federal Regulations (CFR) Part 264 or 265, Subpart O, unless the following requirements are met.

(1) Particulate emissions shall not exceed 0.18 gram per dry standard cubic meter or 0.08 grain per dry standard cubic foot, to include particulate matter caught by impinger train, when corrected for 7.0% oxygen in the stack gas according to the formula specified in §111.121(1) of this title (relating to Single-, Dual-, and Multiple-Chamber Incinerators).

(2) Hydrogen chloride (HCl) emissions greater than 1.8 kilograms (4 pounds) per hour shall require a control device with a minimum removal efficiency of 95%.

(3) Destruction and removal efficiency (DRE) shall be at least 99.99% for each principal organic hazardous constituent (POHC) in each waste feed. The POHCs shall be selected according to the method at 40 Code of Federal Regulations Part 264.342 and shall be approved in advance by the executive director.

DRE shall be determined using

the following formula:

$$DRE = \frac{(Win - Wout)}{Win} \times 100\%$$

Win

in which Win = the mass feed rate of an approved POHC in the waste stream feeding the combustion facility,

and

Wout = the mass emission rate of the same POHC present in exhaust emissions of the combustion device prior to release to the atmosphere.

(4) The facility shall perform a trial burn according to the requirements listed at 40 Code of Federal Regulations Part 270.62 to determine compliance with paragraphs (1)-(3) of this section. The operating conditions and waste feed composition during a trial burn demonstrating compliance with the requirements of paragraphs (1)-(3) shall be maintained as limits for subsequent operation for the facility. Substitution of new hazardous waste constituents and increases in the concentration of any hazardous waste constituent compared to the conditions existing during the trial burn will require retesting unless such change or substitution has received prior written approval from the executive director.

tor. The operating limits shall be monitored continuously and shall include the following:

(A) maximum carbon monoxide level in the exhaust gas of the combustion device;

(B) minimum oxygen level in the exhaust gas of the combustion device;

(C) maximum waste feed rate to the combustion device;

(D) minimum combustion temperature;

(E) an appropriate indicator of combustion gas velocity;

(F) maximum total hydrocarbons in the exhaust gas of the combustion device; and

(G) any other operating limit determined necessary by the executive director to ensure that the requirements of paragraphs (1)-(3) of this section are met.

(5) The facility shall not burn any chlorinated hazardous waste or hazardous waste containing any of the following metals unless the executive director has es-

established an enforceable emission limit designed to protect public health for each metal and for toxic products of incomplete combustion.

Metals

Arsenic

Antimony

Barium

Beryllium

Cadmium

Chromium

Lead

Mercury

Silver

Thallium

(6) The facility shall maintain an automatic waste feed cut-off system which shall activate if the facility is not operating within the limits determined in accordance with paragraph (4) of this section.

(7) During start-up or shutdown of the facility, hazardous waste fuels must not be fed into the combustion zone unless the facility is operating within the limits determined in accordance with paragraph (4) of this section.

(8) Fugitive emissions from the combustion zone shall be controlled by maintaining the combustion zone pressure lower than atmospheric pressure or by keeping the combustion zone totally sealed to prevent fugitive emissions.

(9) Compliance with the requirements of this paragraph and paragraphs (1)-(4) and (6)-(8) of this section shall be as soon as practicable but no later than March 31, 1991. Compliance with paragraph (5) of this section shall be as soon as practicable but no later than September 1, 1991.

§111.125. Testing Requirements. Upon the request of the executive director or a designated representative of TACB, or a representative of the United States Environmental Protection Agency, or the local air pollution control agency, compliance with §111.121 of this title (relating to Single-, Dual-, and Multiple-Chamber Incinerators, and §111.123 of this title (relating to Medical Waste Incinerators) shall be demonstrated by application of [applying] the [following] test methods included in paragraphs (1)-(4) of this section, as appropriate. Compliance with §111.124 of this title (relating to Burning Hazardous Waste Fuels in Commercial Combustion Facilities) shall be demonstrated by application of the test methods included in paragraphs (1)-(5) of this section. Test reports prepared to demonstrate compli-

ance with §111.124 shall clearly document the operating conditions and waste feed composition existing during the test:

(1)-(4) (No change.)

(5) destruction and removal efficiency. Destruction and removal efficiency, measuring principal organic hazardous constituent (POHC) mass feed rate to the commercial combustion facility, measuring the mass emission rate of POHC in the stack gas, and analyzing the POHC sample obtained from the stack gas using the following test methods respectively: Method 8240 of SW-846 "Test Methods for Evaluating Solid Wastes" Method 0030 (VOST) of SW-846 Method 5040 of SW486.

(6) [(5)] alternative methods. Equivalent test methods approved by the executive director.

§111.127. Monitoring Requirement

(a) (No change.)

(b) The owner or operator of an incinerator subject to the requirements of §§111.121, 111.123-111.125 of this title (relating to Single-, Dual-, and Multiple-Chamber Incinerators; Medical Waste Incinerators; Burning Hazardous Waste Fuels in Commercial Combustion Facilities; and Testing Requirements) [§§111.121, 111.123, and 111.125 of this title (relating to Testing Requirements)] shall maintain written records of all monitoring and testing results, hours of operation, and quantity of waste burned. Such records shall be retained for a period of not less than two years before being destroyed. Such records shall be made available upon request by authorized representatives of TACB, United States Environmental Protection Agency (EPA) or local air pollution control agencies. Alternately, in the absence of records verifying waste quantities burned, the design capacity of the unit will be used to determine applicable controls.

(c) The owner or operator of a commercial combustion facility subject to the requirements of §111.124 shall install, calibrate, maintain and operate a monitoring device that continuously measures and records the waste feed rate, combustion gas velocity opacity, oxygen content, carbon monoxide (CO) content, total hydrocarbon (THC) content, and temperature of the exhaust gas of the combustion device. CO and THC shall be corrected to 7.0% oxygen, reported on a dry basis, and measured in the same location. The oxygen, THC, CO, combustion gas velocity and opacity devices must be certified for use following procedures outlined in 40 Code of Federal Regulations Part 60. Such certification must be approved by the executive director or his designated representative of TACB. Compliance determinations may be made based on results of monitoring with a certified monitor.

(d)[(c)] Upon the request of the executive director or a designated representative of TACB, EPA, or local air pollution control agency, the owner or operator of an incinerator which is exempt from the requirements specified in §111.121 and whose incinerator has the capacity to burn more than 100 pounds per hour shall maintain written records of the amount of waste burned. Such records shall be retained for a period of not less than two years before being destroyed.

§111.129. Operating Requirement. The owner or operator of incinerator subject to the requirements of §§111.121, 111.123-111.125, and 111.127 of this title (relating to Single-, Dual-, or Multiple-Chamber Incinerators; Medical Waste Incinerators; Burning Hazardous Waste Fuels in Commercial Combustion Facilities; Testing Requirements; and Monitoring and Recordkeeping Requirements) shall meet the following operating requirements.

(1)-(2) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 17, 1990.

TRD-9013633

Lane Hartsock
Director, Planning and
Development Program
Texas Air Control Board

Earliest possible date of adoption: March 15, 1991

For further information, please call: (512) 451-5711, ext. 433

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VI. Texas Commission for the Deaf

Chapter 181. General Rules of Practice and Procedures

Subchapter H. Memoranda of Understanding with State Agencies

• 40 TAC §181.914

The Texas Commission for the Deaf (TCD) proposes an amendment to §181.914, concerning general provisions pertaining to memorandum of understanding with the Texas Department on Aging (TDoA). The proposal is made pursuant to House Bill 550 of the 70th Texas Legislature (1987), which mandates specified state agencies to adopt by rule memoranda of understanding that describe their respective responsibilities, coordinate the delivery of services to persons who are deaf, and reduce duplication of services. In the course of developing memoranda gaps in the delivery of services and methods to reduce or eliminate such gaps will be identified.

Also, TCD and TDoA shall review the memorandum on an annual basis.

Larry D. Evans, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. Fiscal implications to other state agencies that are party to the agreement will be discussed in their proposals of these memoranda for adoption in rule form.

Mr. Evans also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be the coordination of effort by designated state agencies. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William F. Eckstein, Assistant Director, P.O. Box 12904, Austin, Texas 78711.

The amendment is proposed under the Texas Human Resources Code, §81.017, which provides the Texas Commission for the Deaf with the authority to adopt rules relating to memoranda of understanding with the designated state agencies.

§181.914. The Texas Department on Aging.

(a) (No change.)

(b) The Texas Department on Aging. The Texas Department on Aging, hereafter referred to as TDoA, is the only state agency whose sole responsibility is serving older Texans. It provides a wide array of services to Texans over the age of 60. There is no income criteria for these elderly Texans to be eligible to receive services. However, as the majority of the agency's funds are federal, there are federal requirements for states to set priorities for services to persons in greatest social and economic need. The new amendments to the Older Americans Act of 1965 also stipulate that services be targeted to low-income minority elderly.

(1)-(2) (No change.)

(3) TDoA as the central unit of the network provides leadership. It develops a state plan based on regional and state needs assessment. It has a statewide advisory panel which provides input for this planning process. In addition, public hearings are conducted to provide open discussion forums for other interested citizens. The state plan is approved by the TDoA board.

[(4) TDoA encourages the implementation of the goals established by the Long-Term Care Coordinating Council in 1982. TDoA is the lead agency of this council and it contributes partial staff support. Members include consumers, legislators, representatives of service provider groups, and board members of various state agencies.]

(A) Specific services.

(i) It can be safely assumed that many of the elderly persons that receive TDoA services have some degree of hearing loss, since this is common for people who are 60 years and older. TDoA does not specifically design programs for elderly persons who are deaf or hearing-impaired and does not keep records on the number of deaf or hearing-impaired clients that are served.

(ii) The following are various programs and services offered by the agency.

(I) Senior centers/nutrition sites. Most of TDoA's services are available through senior centers and nutrition sites. There are currently 769 nutrition sites where congregate meals are provided. Two hundred eighty of these are multipur-

pose senior centers where other services, such as transportation, health screening, and educational programs are provided.

(II) Home-delivered meals program. This program provides home-delivered meals to persons who are elderly and cannot prepare their own meals and are physically unable to go to a nutrition site.

(III) Transportation. Over 1,000 vans are operated daily to assist elderly persons in going to hospitals, doctors, grocery stores, senior centers, and nutrition sites.

(IV) Ombudsman program. Specially trained and certified ombudsmen intervene on behalf of long-term care facility residents who have problems involving nursing care, community resources, or family situations.

(V) Housing. TDoA is working with many city, state, and federal government agencies, as well as with many private organizations to assess the major problems of housing for the elderly and to determine solutions.

(VI) Senior Texans Employment Program (STEP). This program provides work/training opportunities for low-income Texans age 55 and older. TDoA contracts with the Farmers Union Community Development Association to provide management and operation of this program. STEP workers provide support for senior centers and nutrition projects for the elderly and utilize their talents in a wide variety of community activities.

(VII) Retired Senior Volunteer Program (RSVP). This program is a part of the federal volunteer agency, ACTION, and is operated in 33 cities statewide. Older persons are provided with a variety of opportunities for community service, enabling them to utilize their experience, abilities, and skills for the betterment of their communities and themselves.

(VIII) Friendly Visitor Program. Volunteers participate by maintaining contact with nursing home residents on an informal basis, offering friendship, reassurance, and a link with the outside world.

(IX) Miscellaneous services. Other services provided through the area agencies may include: case management, free legal assistance, in-home services for the homebound elderly, and information and referral.